IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No. 163 of 1996

DATE OF DECISION: 19.7.2007

The Commissioner of Income-tax, Jalandhar.

…Applicant

Versus

M/s Sterling Steels and Wires Ltd., Vill. Chohal, Hoshiarpur.

…Respondent

**CORAM: HON'BLE MR. JUSTICE M.M. KUMAR**

**HON'BLE MR. JUSTICE AJAY KUMAR MITTAL**

Present: Mr. Sanjiv Bansal, Advocate,
for the applicant-revenue.

Mr. Sanjay Bansal, Senior Advocate, with
Mr. Parvesh Saini, Advocate,
for the respondent-assessee.

**JUDGMENT**

**M.M. KUMAR, J.**

On an application filed by the revenue under Section 256(1) of the Income-tax Act, 1961 (for brevity, 'the Act'), the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for brevity, 'the Tribunal') has referred the question of law, which is claimed to have emerge from its order dated 12.4.1994, passed in I.T.A. No. 353(ASR)/1991 in respect of assessment year 1989-90. The Tribunal has referred the following question of law for determination of this Court:-

> "Whether on the facts and in the circumstances of the case, the Tribunal is right in disapproving the action of the departmental authorities in adding back the amount of Rs. 210.40 acs out of depreciation as per the books of the assessee relating to earlier years. While computing 'book profit' for the purposes of section 115-J, which had arisen

from change of the method of charging depreciation from Straight Line Method to Written Down Value Method?"

It has not been disputed by the learned counsel for the parties that similar question of law has already been settled by Hon'ble the Supreme Court against the revenue in the cases of **Apollo Tyres Ltd. v. Commissioner of Income-tax, (2002) 255 ITR 273** and **Kinetic Motor Co. Ltd. v. Deputy Commissioner of Income-tax, (2003) 262 ITR 330**.

In view of above, the question is answered against the revenue and in favour of the assessee.

**(M.M. KUMAR)**
**JUDGE**

**(AJAY KUMAR MITTAL)**
**JUDGE**

**July 19, 2007**

Pkapoor